

REMARKS

Claims 1-3, 10-14, 16, 18-20, 22-33, 37, 38, and 40-52 were presented for examination in the present application, and claims 1-3, 10, 12-14, 16, 18-20, 22-33, 37, 38, and 40-55 are presented for consideration upon entry of the instant amendment. Claims 4-9, 11, 15, 17, 21, 34-36 and 39 are canceled. Claims 1, 22, 32, 46, and 51 are independent. Claims 53-55 are new. Reconsideration of the application is respectfully requested.

Claims 1-3, 10-14, 16, 18-19, 22-33, 37, 38, 40-44 and 46-52 stand rejected under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent Publication No. 2003/0193961 to Moore et al. (hereinafter " Moore"). Claims 20 and 45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Moore. Claim 11 is canceled rendering the rejection thereto moot.

Claim 1 recites, in part, an apparatus that includes the messaging client of the communication device, when the availability detector indicates that the destination device is unavailable, obtains addressing information of the destination device.

Independent claim 32 recites, in part, a method executed by a communication device that includes detecting availability of a destination device when a call is placed from the communication device to the destination device; and if the destination device is unavailable, then: obtaining addressing information of the destination device on the communication device.

Independent claim 51 recites a method for automatically launching a messaging client on an originating communication device calling a destination communication device that includes detecting availability of the destination device; and if the destination device is unavailable, then: generating a trigger signal; launching the messaging client of the originating communication device in response to the trigger signal; and using the trigger signal to provide addressing information of the destination device to the

messaging client.

The Office Action cites to page 16, lines 179, which Applicant believes should read page 16, paragraph [0179], of Moore for obtaining addressing information of said destination device. Paragraph [0179] of Moore provides that the calling party directly calls the called party by telephone in the usual manner, and, when it is detected that the called party telephone is busy or ringing without being answered, the calling party is connected to the voice processing system so that the caller may be offered alternative ways of reaching the called party. Therefore, paragraph [0179] of Moore merely provides that the calling party directly calls the called party by telephone in the usual manner and that the caller may be offered alternative ways of reaching the called party.

Further, paragraph [0187] of Moore provides in step 720, if the operator does not have access to sufficient information to reach the called party by instant messaging, then step 722 is performed wherein the operator makes known to the caller that alternatives, such as chat, may be available and the operator asks the caller for contact information, if known, and, in step 724, if the caller wants to attempt a chat session as an alternative then execution proceeds to step 726, wherein the caller provides contact information by which the operator may attempt to reach the called party by chat or instant messaging.

Therefore, although the caller of Moore provides contact information by which the operator may attempt to reach the called party by chat or instant messaging, Moore fails to disclose or suggest that the communication device obtains addressing information of the destination device, let alone an apparatus that includes the messaging client of the communication device, when the availability detector indicates that the destination device is unavailable, obtains addressing information of the destination device, as recited by claim 1, obtaining addressing information of the destination device on the communication device, as recited by claim 32, or a method for automatically launching a messaging client on an originating communication device calling a destination communication device that includes using the trigger signal to provide addressing

information of the destination device to the messaging client, as recited by claim 51.

Accordingly, the cited combination of Moore fails to disclose or suggest claims 1, 32 and 51.

Claims 2, 3, 10, 12-14, 16, 18-20 depend from claim 1, claims 33, 37, 38, and 40-45 depend from claim 32, and claim 52 depends from claim 51. By virtue of this dependence, claims 2, 3, 10, 12-14, 16, 18-20, 33, 37, 38, 40-45 and 52 are also patentable over Moore.

In addition, dependent claim 40 recites opening on the communication device an input screen for user input of message content.

Claim 40 depends from claim 32, and, as discussed above, by virtue of this dependence, is also patentable over Moore.

Further, paragraph [0080] of Moore merely provides as illustrated, a calling party 101 is capable of communicating, such as by a telephone connection, with a voice processing system (VPS) 103 typically by dialing a telephone number using a telephone 102 via telephone network 80 in order to reach a called party telephone 138. Thus, Moore merely provides a telephone 102. Therefore, Moore fails to disclose or suggest opening on the communication device an input screen for user input of message content, as recited by claim 40. Accordingly, Applicant respectfully submits that claim 40 is patentable for this additional reason.

Independent claim 22 recites, in part, a message sender associated with an availability detector for sending to an originating communication device a message comprising an address of a destination device when the availability detector indicates unavailability of the destination device.

Independent claim 46 provides, in part, that if a destination device is unavailable, then sending to an originating communication device a message comprising addressing information of the destination device.

As discussed above, although the caller of Moore provides contact information by which the operator may attempt to reach the called party by chat or instant messaging, Moore fails to disclose or suggest that the communication device obtains addressing information of the destination device. Therefore, Moore fails to disclose or suggest a message sender associated with an availability detector for sending to an originating communication device a message comprising an address of a destination device when the availability detector indicates unavailability of the destination device, as recited by claim 22, or that if a destination device is unavailable, then sending to an originating communication device a message comprising addressing information of the destination device, as recited by claim 46.

Accordingly, Moore fails to disclose or suggest claims 22 and 46.

Claims 23-31 depend from claim 22 and claims 47-50 depend from claim 46. By virtue of this dependence, claims 23-31 and 47-50 are also patentable over Moore.

Applicants note the Office Action's taking of Official Notice of the concepts and advantages of "detecting unavailability of said destination device when a connection is made to a voicemail box of said destination device" that the Office Action asserts is well known and expected in the art. In accordance with 37 C.F.R. § 1.104 (d)(2) and to preserve Applicant's argument on appeal, Applicant respectfully challenges the Office Action's assertion as to the officially noticed facts, and request the Examiner cite a reference to support the Office Action's position. Should the subsequent Office Action fail to supply such a reference, Applicant requests withdrawal of the rejection based on the facts officially noticed by the Examiner.

Applicants are respectfully requesting reconsideration and a withdrawal of the section 102(e) and 103(a) rejection of claims 1-3, 10, 12-14, 16, 18-20, 22-33, 37, 38, and 40-52.

Claims 52-55 have been added to point out various aspects of the present application. Support for new claim 53 is found at least on page 12, paragraph [0037] of the present application. Support for new claims 54 and 55 is found at least on page 20, paragraph [0056] of the present application.

Applicants specifically point out that new claims 53-55 are intended to no longer be limited to the specific mechanisms of patentability previously argued with respect to any prior claims in this or any related applications. Accordingly, Applicants hereby rescind any disclaimer of claim scope and, thus, any prior art for which such a disclaimer was made to avoid may need to be revisited by the Examiner with respect to new claims 53-55.

It is believed that new claims 53-55 are in a condition for allowance. For example, Applicants respectfully submit that new claim 53 is patentable over the cited art. In particular, none of the cited references disclose or suggest that the communications device has a memory, and that the messaging client of the communication device, when the availability detector indicates that the destination device is unavailable, obtains the addressing information of the destination device from the memory, as recited by claim 53.

In addition, none of the cited references disclose or suggest that the messaging client of the communication device, when the availability detector indicates that the destination device is unavailable, generates the message on the communication device by opening an input screen displayed to the user for the user to input message content and sends the message content in the message via the communication device to the destination device in accordance with the addressing information, upon receipt of a command from the user of the communication device, as recited by claim 54.

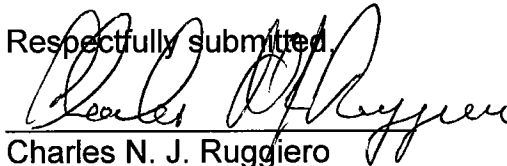
Further, none of the cited references disclose or suggest that the messaging client of the communication device, when the availability detector indicates that the destination device is unavailable, generates the message on the communication device and displays the message to the user, as recited by claim 55.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

February 19, 2010

Respectfully submitted,



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